

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

GREEN TREE SERVICING, LLC,
PLAINTIFF

Vs.

CIVIL NO.
15-938 (PGS)

DAVID & JULIE CARGILLE,
DEFENDANTS

OCTOBER 13, 2015
CLARKSON S. FISHER COURTHOUSE
402 EAST STATE STREET
TRENTON, NEW JERSEY 08608

B E F O R E: THE HONORABLE PETER G. SHERIDAN
U.S. DISTRICT COURT JUDGE
DISTRICT OF NEW JERSEY

A P P E A R A N C E S:

KML LAW GROUP, PC
BY: DENISE CARLON, ESQUIRE
FOR THE PLAINTIFF

DAVID CARGILLE, ESQUIRE
PRO SE

HEARING ON MOTION TO DISMISS/MOTION TO REMAND

Certified as true and correct as required
by Title 28, U.S.C. Section 753
/S/ Francis J. Gable
FRANCIS J. GABLE, C.S.R., R.M.R.
OFFICIAL U.S. REPORTER
(856) 889-4761

1 THE COURT: So, this is Green Tree Servicing versus
2 Cargille. So, the first thing we should do is enter
3 appearances, and we will start with the plaintiff.

4 MS. CARLON: Good afternoon, your Honor, Denise
5 Carlon, KML Law Group, for the plaintiff Green Tree Servicing.

6 THE COURT: Good afternoon, Ms. Carlon.
7 For the defendants?

8 MR. CARGILLE: We're appearing pro se, your Honor.
9 So, I'm David Cargille.

10 MS. CARGILLE: Julie Cargille.

11 THE COURT: Okay. Good afternoon.

12 MR. CARGILLE: I do want to let the Court know that
13 I'm an admitted attorney admitted in New York, but not in New
14 Jersey.

15 THE COURT: All right. Welcome.

16 MR. CARGILLE: Thank you, your Honor.

17 THE COURT: So, it's your motion to dismiss, Mr.
18 Cargille; do you wish to be heard?

19 MR. CARGILLE: Your Honor, I think this is one of
20 those rare instances in which the motion and memorandum and
21 reply brief speaks for itself.

22 THE COURT: Oh, really. Okay. I invited you here
23 today, so I thought you might have some interesting arguments
24 for me.

25 MR. CARGILLE: Your Honor, there is quite a lot of

1 interesting material here.

2 THE COURT: All right.

3 MR. CARGILLE: Especially considering that we -- our
4 position is that the Court should simply strike the opposition
5 as untimely, very untimely for no -- for no good cause.

6 THE COURT: Could you just go through that untimely
7 argument for me?

8 MR. CARGILLE: Sure. It's very nicely laid out in
9 my August 21 letter to the Court. So, the motion to dismiss
10 was filed on May 15, we served a copy by e-mail on May 20 to
11 Caitin Donnelly, and to Ms. Murtha on May 21; on May 29, the
12 Court docketed oral argument on August 19th. On June 1, which
13 was the deadline for the opposition to be filed, I sent a
14 letter --

15 THE COURT: Right, I got that letter on Friday.

16 MR. CARGILLE: This letter was quite a while ago,
17 it's August 21. So, there was a Friday letter, I think that
18 was an extension letter or a rescheduling letter. Today's
19 letter addresses -- presents a few simple arguments regarding
20 the --

21 THE COURT: Go ahead.

22 MR. CARGILLE: It really will help to have a copy in
23 front of you.

24 THE COURT: Which letter?

25 MR. CARGILLE: The August 21 letter.

1 THE COURT: I thought I had all my papers here, and
2 I don't have the August 21 letter.

3 MR. CARGILLE: Would your Honor like to have someone
4 make a copy? I have a rather informal copy here.

00:04 5 THE COURT: Hold on; I'll get it, just give me one
6 second.

7 (Court leaves bench.)

8 THE COURT: They're bringing that letter out.

9 MR. CARGILLE: So it's really pretty fairly simple.
00:05 10 On June 1 I contacted them -- Ms. Murtha to -- in an effort
11 essentially to provide notice under Rule 11 that we believe
12 that certain facts were -- were not at all accurate.

13 On June 11, Ms. Donnelly, Caitlin Donnelly, filed a
14 notice of appearance in this action, so they were aware of the
00:05 15 action. On August 11, the Court set oral argument for August
16 19. And then six days later, plaintiff filed its opposition
17 on August 17. So that opposition was just -- just a standard
18 memorandum. There was a very short request at the -- on the
19 last page were the Court to accept the opposition, even though
00:06 20 it was untimely, because it purportedly was a docketing error.

21 And our position here is that we're now -- you know,
22 the opposition was due in June, we're now in -- well, it was
23 filed -- the opposition was filed in August, so almost two and
24 a half months late. And they hadn't filed any extension, they
00:07 25 didn't request any extension from me, they didn't contact the

1 Court in a timely manner, and that of course violates the
2 Local Rule 7.1(d)(7).

3 So what they should have done was to either --
4 either obtain an extension by agreement, or file an extension
5 -- a motion for extension of time.

6 THE COURT: Okay.

7 MR. CARGILLE: I realize that this sort of summary
8 striking of an opposition is somewhat disfavored, and I
9 wouldn't be asking for it myself if the circumstances here
10 weren't quite so unusual. I've been going back and forth with
11 Green Tree about their ownership of the note or lack thereof
12 for more than two and a half years. They've told me six, now
13 seven times that they don't own the note, and then just on
14 August 17 they provide a copy of -- a stamped copy of a note
15 that appears to have been merely stamped and not actually
16 signed.

17 So, I mean there are a lot of circumstances.
18 They've made a number of misrepresentations, especially
19 significant to me, your Honor, is the one around May; it's in
20 the letter, very long letter. Forward to May 15, it's at the
21 very end; it's on page 15. And I apologize for the length of
22 the letter, your Honor, but because so long has been -- this
23 dispute has been at issue for so long, we've exchanged a lot
24 of correspondence about it.

25 So, on May 18, a representative of Green Tree

1 actually called me and told me that a foreclosure sale date
2 had been set for August 27. And the representative's
3 intention was to convince me to submit another loan
4 modification application; by apparently telling me that a sale
5 date had been set. It's -- it's incorrect. The court -- no
6 court has set a foreclosure sale date for this matter.

7 On May 21, another representative confirmed that
8 Green Tree had a sale date scheduled in its computer, and she
9 also confirmed that the scheduled sale date was August 27.

10 And again, on May 21 that was confirmed.

11 So I -- there's a lot in here, but I truly believe
12 that Green Tree has acted unusually badly here in not
13 providing -- demonstrating to me that they owned the loan and
14 the note, or the note and the mortgage in the first place, and
15 then by these sorts of -- well, lies, your Honor.

16 I'd also like to point out that Green Tree,
17 surprisingly enough, one month -- about one month before
18 these -- these lies, entered into a settlement agreement, a
19 \$63 million settlement agreement with I think the federal
20 government. Because of, and precisely because of, their
21 history of unfair debt collection practices.

22 And one of the key terms in that settlement was that
23 they would not make anymore misrepresentations to any -- to
24 any of their debtors or any of the loans that they serviced.

25 And here a month later, they're -- they're lying to me about

1 the foreclosure date, in an effort to persuade me to file --
2 or to submit to them a new loan modification agreement. It's
3 truly egregious.

00:11

4 And so, based -- based on that, based on the long
5 length of time here, I do believe that the Court should simply
6 strike the opposition as untimely, find that the plaintiff has
7 failed to provide any good cause for any extension of time,
8 and dismiss the case with prejudice.

00:12

9 THE COURT: Okay, thank you.

10 Ms. Carlon?

11 MS. CARLON: Yes, your Honor.

12 THE COURT: So, I know you have your own motion to
13 remand; right?

14 MS. CARLON: That's correct.

00:12

15 THE COURT: And then you also wish to speak about
16 this motion to dismiss as well? So, why don't you do the
17 motion to remand and then the motion to dismiss, and I'll give
18 Mr. Cargille an opportunity to discuss the remand motion.

00:12

19 MS. CARLON: Okay, your Honor. In this case the
20 defendant filed a notice of removal shortly after the
21 complaint was filed in the state court. After some extensions
22 of time for the defendant to answer, our office -- after a
23 motion to dismiss was docketed, our office filed a motion to
24 remand the case back to state court.

00:12

25 THE COURT: So, when was it removed, what was the

1 date on that?

2 MS. CARLON: The date of the removal is February 4th
3 of 2015.

4 MR. CARGILLE: It was timely removed 35 days after
5 service of the state complaint, your Honor.

6 THE COURT: Mr. Cargille, the rule is that this is
7 Ms. Carlon's opportunity to argue, so --

8 MR. CARGILLE: I apologize.

9 THE COURT: You'll have your chance to respond. But
10 we need to handle the argument in a coherent manner, and the
11 best way to do that is to allow each party to have their time
12 to state their points, and then I give the other person time
13 to respond.

14 MR. CARGILLE: Yes, your Honor.

15 THE COURT: Go ahead, Ms. Carlon.

16 MS. CARLON: The initial notice of removal cited
17 both diversity jurisdiction and also a federal question
18 jurisdiction. To date there's not a federal question.
19 There's no underlying federal claim here. This action brought
20 by the plaintiff is the only complaint that's in this action.

21 THE COURT: So when the removal was made to this
22 Court on 2/4/15, when was the remand motion made?

23 MS. CARLON: The remand motion was filed May 20th.

24 THE COURT: Okay.

25 MS. CARLON: But remand based on subject -- subject

1 matter jurisdiction is proper any time up until the entry of
2 final judgment. Here, we've got a situation where we have a
3 defendant who requests removal to the federal court based on
4 both federal question and diversity.

00:14

5 Now, diversity is actually an improper basis for
6 removal here, because the defendant is a resident of New
7 Jersey, the subject property of this foreclosure action is
8 located in New Jersey, and the action was properly brought in
9 the New Jersey State Court foreclosure courts.

00:14

10 The federal question jurisdiction, we still don't have
11 a federal question, because there is no answer or
12 counterclaim. Our action is not based on federal law, and
13 therefore in order for there to be a federal issue, a federal
14 question, there would need to be some sort of counterclaim or
15 defense.

00:15

16 THE COURT: Well, in the removal did they cite to a
17 federal question?

18 MS. CARLON: No, they just cited the statute.

19 THE COURT: What statute?

00:15

20 MS. CARLON: 28 U.S.C. 1331.

21 THE COURT: All right.

22 MS. CARLON: But there is no -- there was no mention
23 of, for example, TILA, Truth in Lending actions, or real
24 estate settlement procedures acts violations, it was just this
25 is being removed based on these issues.

00:15

1 When the --

2 THE COURT: Based on these issues, what do you mean
3 by these issues?

4 MS. CARLON: Sorry. Let me -- I'll read it to you
5 verbatim from the notice of removal: Please take notice that
6 pursuant to 28 U.S.C. 1331, 1332 and 1146, the defendants did
7 on the 4th day of February file a notice of removal in the
8 District Court, to the District of the New Jersey of United
9 States of New Jersey.

10 THE COURT: I'm sorry, go ahead.

11 MS. CARLON: So, it simply cited to the statute in
12 the notice of removal. It didn't specify what it was going to
13 be. Typically when that happens we get an answer and a
14 counterclaim that has TILA, RESPA and other counterclaims in
15 the answer, but we don't have that here. In fact, we just
16 have a 12(b)(6) motion. So we still don't have subject matter
17 jurisdiction.

18 It was outside the 30 days of the initial objection
19 period to objecting to the removal, but the motion for remand
20 is still proper. We don't have final judgment here. And
21 because of that I don't think that the Court can rule on the
22 12(b)(6) motion, but that's of course my argument.

23 THE COURT: Okay.

24 MS. CARLON: As to the 12(b)(6) motion, of course I
25 would request that the Court consider the papers of the

1 plaintiff in opposition to the 12(b)(6) motion. The -- most
2 notably, the papers in opposition to the 12(b)(6) motion
3 highlight the chain of ownership, it attaches the copy of the
4 note that's endorsed to blank, and it also goes through
5 basically the basic elements of a foreclosure.

6 But even if the Court decides not to consider the
7 plaintiff's papers in opposition, the 12(b)(6) motion itself
8 raises issues of fact that if this were converted to a summary
9 judgment motion, would preclude summary judgment from being
10 granted; and if it's considered as a 12(b)(6) motion, you
11 would just have to take the plaintiff -- the plaintiff's
12 foreclosure complaint at its four corners. And what we have
13 there is that there's an assignment into Green Tree Servicing,
14 there's a default, and there is a mortgage that permits for
15 the lender to take action against the subject property. So,
16 we have all of the elements of a foreclosure in the four
17 corners of the document.

18 Based on that, a motion under 12(b)(6) which seeks
19 to dismiss the complaint for failure to state a cause of
20 action, would properly be denied. Because the cause of action
21 is clearly laid out with the traditional prima facie elements
22 of a New Jersey foreclosure.

23 THE COURT: Okay, thank you. Do you have any other
24 arguments? Ms. Carlon, do you have any other arguments?

25 MS. CARLON: No, your Honor, I think our papers

1 speak for themselves.

2 THE COURT: Mr. Cargille, I'll give you an
3 opportunity to respond on the motion to remand. Do you wish
4 to do that?

00:19 5 MR. CARGILLE: Thank you, your Honor. We do contend
6 that the motion for remand was untimely.

7 THE COURT: Because it wasn't made in 30 days?

8 MR. CARGILLE: Yes, your Honor. And that's
9 considered generally a strict deadline.

00:19 10 THE COURT: Well, I don't know, usually if there's
11 no subject matter jurisdiction, can usually remand even up
12 until final judgment.

13 MR. CARGILLE: I certainly agree that if the Court
14 lacks subject jurisdiction then it shouldn't be here. But we
00:19 15 believe that there is at a minimum diversity jurisdiction on
16 the current pleadings. Regrettably, although 1331 does appear
17 on our notice to this Court, it -- the notice of removal filed
18 in the state court really was solely based on diversity
19 jurisdiction.

00:20 20 THE COURT: Okay. So you're here on diversity?

21 MR. CARGILLE: Yes. Now, the central argument --

22 THE COURT: But the notice of removal, cites to
23 1332.

24 MR. CARGILLE: It should be diversity jurisdiction.

00:20 25 THE COURT: Well, that's what that is, 1332.

1 MR. CARGILLE: The date --

2 THE COURT: I don't see -- Ms. Carlon, you had
3 indicated it said 1331 as well?

4 MS. CARLON: Yes, it says both 1331 and 1332.

00:21 5 THE COURT: Can you tell me where it says that?

6 MS. CARLON: Yes. It says it -- it says it on the
7 notice of filing of removal to federal court: Please take
8 notice that pursuant to 28 U.S.C. 1331, 1332, and 1146, the
9 defendants did on the 4th day file a notice -- 4th day of
00:21 10 February 2015 file a notice of removal.

11 It's even -- it's coded -- I mean this isn't really
12 binding on anyone, but it is coded as federal question on
13 Pacer as well. So, there were -- there were two separate
14 possibilities for conferring subject matter jurisdiction on
00:22 15 this Court. And I contend that there isn't a federal
16 question, and the diversity of citizenship is improper because
17 this is something that was brought in the state court where
18 the defendants are both citizens. And that's -- that's 28
19 U.S.C. 1441(b)(2).

00:22 20 THE COURT: What I had is Document 1, which is Joint
21 Notice of Removal, and in that joint notice I only see in
22 paragraph 7 and paragraph 8, 1332.

23 MS. CARLON: I'm going to -- I suppose that I was
24 remiss in not reviewing that part of the docket, but this is
00:22 25 what was provided to us by the defendant upon --

1 THE COURT: What document are you looking at?

2 MS. CARLON: This is -- let me see -- I don't have a
3 number on it because it was sent directly to us before it was
4 docketed with the Court.

00:23 5 MR. CARGILLE: If I may, your Honor?

6 THE COURT: You may.

7 MR. CARGILLE: Ms. Carlon is correct, on the notice
8 of removal to federal court, there are two documents that are
9 labeled notice -- one is labeled Notice of Removal to Federal
00:23 10 Court, the other is labeled Notice of Filing of Removal to
11 Federal Court.

12 THE COURT: Oh, okay.

13 MR. CARGILLE: And both I believe should be on the
14 record. Now, the first one is a document that we filed in the
00:23 15 Superior Court advising the Superior Court that we were filing
16 for removal. And then we attached to the Superior Court the
17 second one, the Notice of Filing of Removal to the Federal
18 Court. And then finally there is the document entitled Joint
19 Notice of Removal, which sets forth the bases for the removal,
00:24 20 it sets out in very specific detail the bases for diversity
21 jurisdiction here.

22 I would like to point out that our -- our opening
23 sheet actually was checked off for diversity, not necessarily
24 federal question. We do believe that if the case goes forward
00:24 25 in this Court we will file counterclaims that do provide

1 federal jurisdiction to the Court.

2 But if I may, your Honor, defendant -- plaintiffs
3 aren't arguing --

4 THE COURT: I'm sorry, I was allowing to you answer
5 one question.

6 MR. CARGILLE: I'm sorry.

7 THE COURT: So I think I interrupted Ms. Carlon.

8 So, Ms. Carlon?

9 MS. CARLON: Even if there were federal question,
10 which there isn't, there's still an issue with the diversity
11 jurisdiction here. 28 U.S.C. 1441(b)(2) says that an action
12 that's removable based on diversity is not removable if the
13 defendants are citizens of the state where the action is
14 brought.

15 THE COURT: I understand that.

16 MS. CARLON: They are residents of New Jersey, they
17 live at the subject property. So we're still back at the
18 point where we don't have either.

19 THE COURT: All right. Thank you.

20 So, Mr. Cargille; I'm sorry. You may proceed.

21 MR. CARGILLE: Thank you, your Honor.

22 THE COURT: So, do you understand that, that this
23 diversity issue, is -- you know, it's not an all encompassing
24 proposition, there's some instances where diversity isn't
25 sufficient. So, one of them is where the defendants live in

1 the state, you can't ordinarily remove to federal court under
2 those circumstances. And the reason is that since you're
3 defending the case, you know, there was a fear by the founding
4 fathers that you could be subject to an adverse court ruling
5 if you're a defendant in a foreign jurisdiction, and if you're
6 not in a foreign jurisdiction then that fear is not present.
7 So, in those instances you can't remand -- or remove I should
8 say, based on diversity, which is where you are now.

9 MR. CARGILLE: Your Honor, I do understand that had
10 the plaintiffs -- plaintiff filed a motion to remand timely
11 within 30 days, that the Court could properly grant that
12 motion on the basis -- under that section that opposing just
13 counsel just cited.

14 However, your Honor, there are numerous cases in
15 this -- I believe in this district and elsewhere, in fact, in
16 the Third Circuit, *Farina v. Nokia*, cited in our opposition,
17 which states essentially that if 30 days passes, the objection
18 under 1447(c) is then waived. So, we removed on February 4,
19 they waited three months until May 20, and only then did they
20 file their motion for remand, which we believe because of
21 the -- the way that the courts in the Third Circuit have
22 construed this 1447 section, is -- gives this Court authority
23 to keep the case and not to remand it.

24 THE COURT: But I think the difference is that where
25 we have federal subject matter jurisdiction, and at some point

1 in time during the case the federal subject matter may be
2 dismissed or it may not arise like in your case. So, if there
3 is no federal subject matter on some different statute on
4 which you're basing it, then we would still remand the case if
5 only state causes of action remain. So, I don't --

6 MR. CARGILLE: Yes, your Honor.

7 THE COURT: 30 days has some input, but not in this
8 type of case for the most part.

9 MR. CARGILLE: My understanding is that plaintiff
10 isn't challenging subject matter jurisdiction itself, but
11 primarily challenging the same state -- essentially the same
12 state rule -- I'm sorry, it's called the procedural forum
13 defendant issue.

14 THE COURT: Your problem is that in your notice of
15 removal, at least in one of them, you had indicated that there
16 was some statute that was -- federal statute that has been
17 violated or breached, and therefore you have a right to be in
18 this court, in addition to your diversity. But no answer has
19 been filed, so we don't know what the federal statute or cause
20 of action is, so now we are just left with the diversity one.

21 MR. CARGILLE: We believe that there is subject
22 matter jurisdiction under diversity, your Honor. The
23 plaintiffs are -- and there is a whole chain that I provided
24 in the notice of removal, setting out the states in which
25 plaintiff is a resident or citizen, and none of them are New

1 Jersey. So it's not a question of --

2 THE COURT: But you're not, you're a resident of the
3 State of New Jersey.

4 MR. CARGILLE: Yes, your Honor.

00:30 5 THE COURT: And you were before the state court in
6 New Jersey, under those circumstances, under the removal
7 statutes, you're not allowed to remove because there's no
8 reason to allow removal in that instance.

00:30 9 MR. CARGILLE: I would have expected exactly the
10 same, your Honor; in fact, I was very surprised when I
11 discovered these Third Circuit cases finding a waiver, even
12 though there was -- the so-called forum defendant rule had
13 been violated. But those cases also held that it wasn't a
14 question of jurisdiction, it was a question of a statutory
00:31 15 violation, which was not a jurisdictional issue and --

16 THE COURT: I'm sorry; go ahead.

17 MR. CARGILLE: And that it is a waivable issue, by
18 filing untimely, by failing to file within the 30 days.
19 Numerous courts have held this, your Honor. I haven't seen
00:31 20 any case -- it's my recollection I haven't seen any case that
21 does waive the untimely filing. The cases that I saw were on
22 the other side. That's all, your Honor.

23 THE COURT: All right. So, I've reviewed this
24 matter, and the issue is we have this 30 day rule, and I
00:32 25 understand it, whoever has removed, must set forth the reasons

1 for the removal. Within the removal, the first one I looked
2 at was the Joint Notice of Removal, Document 1, and it only
3 cites to diversity. And if the plaintiff was just relying on
4 diversity, then they didn't file within the 30 days, so that
5 may have waived their right under certain circumstances.

6 But there was another document which Mr. Cargille
7 pointed out, that indicated that there was a 1331 issue, which
8 deals with the district court shall have original jurisdiction
9 over all civil actions arising under the Constitution, laws or
10 treaties of the United States. So, if you assert that, then
11 the defendant has to come forward -- the matter is removed to
12 this Court, and it stays until such time as there is no
13 federal question pending. And in this instance, the
14 defendants asserted in their notice of removal that there
15 would be a federal question, but it just never arose. They
16 didn't file an answer, so they brought this motion to dismiss
17 the complaint.

18 So, the Court doesn't have any information before it
19 that would show that there's any federal question that's
20 pending. And under those federal question issues, ordinarily
21 those types of issues can be raised with regard to
22 jurisdiction at any time, and I've had them at summary
23 judgment time, and we've remanded them back to state court
24 where the federal question was dismissed.

25 In this instance, on December 8, 2014, plaintiff

1 filed suit in Superior Court. Evidently the Superior Court
2 rejected plaintiff's pleadings and issued a deficiency notice.
3 On January 5, 2015, defendants received the summons and
4 complaint. February 2, 2015, defendants appeared pro se and
5 removed the matter. Specifically -- and this refers to the
6 notice of removal; defendants contend they are domiciled in
7 New Jersey; the plaintiff is a citizen of Delaware, Maryland
8 and Minnesota, and the controversy is over \$75,000, that's
9 part of their notice of removal.

10 So, the underlying action is a foreclosure action.
11 The defendants executed a promissory note with GMAC on August
12 28, 2003 for \$285,000, with an initial interest rate of 5.2
13 percent I believe. There was a mortgage that secured the
14 property. Then the mortgage was assigned at some point to
15 Green Tree. In this case, the defendants dispute the
16 assignment. And plaintiff Green Tree asserts that the
17 defendants have defaulted on the mortgage payments.

18 So, pursuant to 28 U.S.C. 1441(a): "Any civil
19 action brought in the state of which the district courts of
20 the United States have original jurisdiction, may be removed
21 by the defendant to the District Court of the United States.
22 That's 28 U.S.C. 1441(a). See, *Metropolitan v. Taylor*, 481
23 U.S. 5863 (1987). A defendant can remove an action to federal
24 court pursuant to 1441(a) if the plaintiff could have filed it
25 here in the first instance. After removal a party can remand

1 the action back to the state court. 28 U.S.C. Section
2 1447(c). However, pursuant to 28 U.S.C. 1441(b)(2), when the
3 defendant is a resident of the forum state, removal to federal
4 court on the basis of diversity jurisdiction is inappropriate.
5 The logic behind the authorization of federal diversity
6 jurisdiction is to protect defendants from favoritism of
7 plaintiff state courts, by allowing the foreign defendant to
8 remove the case to a federal district court. That's *Trask v.*
9 *Kasenez*, 818 F.Supp 39, 44 (E.D.N.Y. 1993). This underlying
10 logic dictates that a case should be remanded to the state
11 where it originally brought, because "that court would have
12 greater familiarity with the interest of and the issues of the
13 case." Here, it is undisputed that plaintiff brought the
14 action in Superior Court, the state in which the removing
15 defendants are domiciled. Therefore, the defendants' removal
16 on the basis of diversity was improper under 28 U.S.C. Section
17 1441(b)(2).

18 Additionally, the Superior Court has greater
19 familiarity with the interest in the foreclosure action, given
20 the federal courts often follow substantive state law in
21 foreclosure proceedings. Accordingly, because the defendants
22 are not subject to possible home state bias in this case, and
23 the foreclosure action is governed by state substantive law, I
24 don't find any basis to exercise the diversity jurisdiction.
25 And I know there's this issue with the 30 days clause, but

1 it's questionable whether the plaintiff -- whether they should
2 have awaited to see how you would answer, or whatever, to see
3 if there was a federal question in the case. But when it
4 became apparent after you asserted federal question under your
5 notice and then not to assert it, that there was a legitimate
6 reason to present the issue to the Court.

7 And I understand it was two and a half months later,
8 but it's not a serious breach of the rules. And it seems
9 understandable under the circumstances of how the removal took
10 place, and how the plaintiffs finally realized that there was
11 really no federal question at issue. The notice of removal
12 said there was a federal question I believe at one point, but
13 no one has identified what the federal issue was, i.e.,
14 whether it violated a certain statute. Since it's a
15 foreclosure, we usually see RESPA violations, Truth in Lending
16 violations, Federal Debt Collection Practices Act violations,
17 but none of them are asserted before the Court. And as such,
18 I don't see any federal question upon which this Court can
19 sustain or maintain jurisdiction.

20 In addition, since the defendants are from the State
21 of New Jersey, there's no state court favoritism if the case
22 is handled in New Jersey. So, the Court, based on the
23 application of the plaintiff, is remanding the case to state
24 court.

25 So, thank you for coming in and I will sign an

1 order.

2 MS. CARLON: Thank you.

3 MR. CARGILLE: Your Honor, if I may, I understand
4 the ruling; I do believe that this is an appealable issue. I
5 do believe that as pro se plaintiffs we have set forth in my
6 August 21 letter adequate grounds for the Court to find even
7 federal jurisdiction, even if the Court found that there were
8 not -- was not diversity jurisdiction.

9 We respectfully disagree with the Court's finding.
10 I do intend to appeal this issue to the second -- to the Third
11 Circuit because of those favorable cases, your Honor. And
12 therefore, I would like to ask your Honor in addition to
13 providing the record as you have orally, to provide a written
14 opinion setting forth all of the bases for your Honor's ruling
15 so that we can have a good record on appeal.

16 THE COURT: Well, you can just order the transcript
17 and you'll have it.

18 MR. CARGILLE: Very good, your Honor.

19 THE COURT: All right. So, I'm looking through your
20 August 21st letter, and I don't see any --

21 MR. CARGILLE: I do believe there are Truth in
22 Lending Act violations, that there are RESPA violations,
23 that -- that there are violations of orders that have been
24 entered in federal court, and I believe that defendant's --
25 plaintiff's conduct here is indeed sanctionable for violations

1 of those orders.

2 THE COURT: I'm just looking through this letter, I
3 had read it before, but it didn't strike me that I saw or
4 observed any federal issues. It looked like this was a
5 foreclosure case. And you may have issues with regard to
6 whether Green Tree is the assignee of GMAC, or other issues
7 like that, but those are all issues that can be easily handled
8 by the Superior Court of New Jersey. So, I didn't see any
9 federal issues raised there.

10 MR. CARGILLE: May I respond on that issue, your
11 Honor? I don't disagree that the state courts could handle
12 most of these issues, but I do believe that the federal court
13 has a somewhat unique capability and ability to -- to work
14 through all of these very specific and I think complicated
15 issues. So, I removed it to this Court primarily because I do
16 believe that it's complicated enough for this Court to
17 address.

18 THE COURT: I understand that. So, we just disagree
19 on that point.

20 All right. So thank you for coming in. An order
21 will issue. If you need the rationale behind my decision, you
22 can just order the transcript from Frank and it will be
23 provided to you. So, thank you.

24 (Matter concluded.)

25

\$	20 [2] - 3:10, 16:19 2003 [1] - 20:12 2014 [1] - 19:25 2015 [5] - 1:8, 8:3, 13:10, 20:3, 20:4 20th [1] - 8:23 21 [8] - 3:9, 3:11, 3:17, 3:25, 4:2, 6:7, 6:10, 23:6 21st [1] - 23:20 27 [2] - 6:2, 6:9 28 [12] - 1:23, 9:20, 10:6, 13:8, 13:18, 15:11, 20:12, 20:18, 20:22, 21:1, 21:2, 21:16 29 [1] - 3:11	A	argue [1] - 8:7 arguing [1] - 15:3 argument [6] - 3:7, 3:12, 4:15, 8:10, 10:22, 12:21 arguments [4] - 2:23, 3:19, 11:24 arise [1] - 17:2 arising [1] - 19:9 arose [1] - 19:15 assert [2] - 19:10, 22:5 asserted [3] - 19:14, 22:4, 22:17 asserts [1] - 20:16 assigned [1] - 20:14 assignee [1] - 24:6 assignment [2] - 11:13, 20:16 attached [1] - 14:16 attaches [1] - 11:3 attorney [1] - 2:13 August [15] - 3:9, 3:12, 3:17, 3:25, 4:2, 4:15, 4:17, 4:23, 5:14, 6:2, 6:9, 20:11, 23:6, 23:20 authority [1] - 16:22 authorization [1] - 21:5 awaited [1] - 22:2 aware [1] - 4:14	brought [8] - 8:19, 9:8, 13:17, 15:14, 19:16, 20:19, 21:11, 21:13 BY [1] - 1:16
/			C	
/S [1] - 1:24			C.S.R [1] - 1:24 Caitin [1] - 3:11 Caitlin [1] - 4:13 capability [1] - 24:13 CARGILLE [41] - 1:6, 1:18, 2:8, 2:10, 2:12, 2:16, 2:19, 2:25, 3:3, 3:8, 3:16, 3:22, 3:25, 4:3, 4:9, 5:7, 8:4, 8:8, 8:14, 12:5, 12:8, 12:13, 12:21, 12:24, 13:1, 14:5, 14:7, 14:13, 15:6, 15:21, 16:9, 17:6, 17:9, 17:21, 18:4, 18:9, 18:17, 23:3, 23:18, 23:21, 24:10 Cargille [9] - 2:2, 2:9, 2:10, 2:18, 7:18, 8:6, 12:2, 15:20, 19:6 CARLON [23] - 1:16, 2:4, 7:11, 7:14, 7:19, 8:2, 8:16, 8:23, 8:25, 9:18, 9:20, 9:22, 10:4, 10:11, 10:24, 11:25, 13:4, 13:6, 13:23, 14:2, 15:9, 15:16, 23:2 Carlton [9] - 2:5, 2:6, 7:10, 8:15, 11:24, 13:2, 14:7, 15:7, 15:8 Carlton's [1] - 8:7 case [21] - 7:8, 7:19, 7:24, 14:24, 16:3, 16:23, 17:1, 17:2, 17:4, 17:8, 18:20, 20:15, 21:8, 21:10, 21:13, 21:22, 22:3, 22:21, 22:23, 24:5 cases [5] - 16:14, 18:11, 18:13, 18:21, 23:11 causes [1] - 17:5 central [1] - 12:21 certain [3] - 4:12, 19:5, 22:14 certainly [1] - 12:13 Certified [1] - 1:23 chain [2] - 11:3, 17:23 challenging [2] -	
0				
08608 [1] - 1:10				
1			B	
1 [4] - 3:12, 4:10, 13:20, 19:2 11 [3] - 4:11, 4:13, 4:15 1146 [2] - 10:6, 13:8 12(b)(6) [8] - 10:16, 10:22, 10:24, 11:1, 11:2, 11:7, 11:10, 11:18 13 [1] - 1:8 1331 [7] - 9:20, 10:6, 12:16, 13:3, 13:4, 13:8, 19:7 1332 [6] - 10:6, 12:23, 12:25, 13:4, 13:8, 13:22 1441(a) [2] - 20:18, 20:24 1441(a) [1] - 20:22 1441(b)(2) [2] - 15:11, 21:2 1441(b)(2) [2] - 13:19, 21:17 1447 [1] - 16:22 1447(c) [1] - 16:18 1447(c) [1] - 21:2 15 [3] - 3:10, 5:20, 5:21 15-938 [1] - 1:5 17 [2] - 4:17, 5:14 18 [1] - 5:25 19 [1] - 4:16 1987 [1] - 20:23 1993 [1] - 21:9 19th [1] - 3:12	3 30 [9] - 10:18, 12:7, 16:11, 16:17, 17:7, 18:18, 18:24, 19:4, 21:25 35 [1] - 8:4 39 [1] - 21:9	ability [1] - 24:13 accept [1] - 4:19 Accordingly [1] - 21:21 accurate [1] - 4:12 Act [2] - 22:16, 23:22 acted [1] - 6:12 action [22] - 4:14, 4:15, 8:19, 8:20, 9:7, 9:8, 9:12, 11:15, 11:20, 15:11, 15:13, 17:5, 17:20, 20:10, 20:19, 20:23, 21:1, 21:14, 21:19, 21:23 actions [2] - 9:23, 19:9 acts [1] - 9:24 addition [3] - 17:18, 22:20, 23:12 Additionally [1] - 21:18 address [1] - 24:17 addresses [1] - 3:19 adequate [1] - 23:6 admitted [2] - 2:13 adverse [1] - 16:4 advising [1] - 14:15 afternoon [3] - 2:4, 2:6, 2:11 ago [1] - 3:16 agree [1] - 12:13 agreement [4] - 5:4, 6:18, 6:19, 7:2 ahead [4] - 3:21, 8:15, 10:10, 18:16 allow [2] - 8:11, 18:8 allowed [1] - 18:7 allowing [2] - 15:4, 21:7 almost [1] - 4:23 answer [8] - 7:22, 9:11, 10:13, 10:15, 15:4, 17:18, 19:16, 22:2 apologize [2] - 5:21, 8:8 apparent [1] - 22:4 appeal [2] - 23:10, 23:15 appealable [1] - 23:4 appear [1] - 12:16 appearance [1] - 4:14 appearances [1] - 2:3 appeared [1] - 20:4 appearing [1] - 2:8 application [2] - 6:4, 22:23	badly [1] - 6:12 Based [2] - 10:2, 11:18 based [11] - 7:4, 8:25, 9:3, 9:12, 9:25, 12:18, 15:12, 16:8, 22:22 bases [3] - 14:19, 14:20, 23:14 basic [1] - 11:5 basing [1] - 17:4 basis [5] - 9:5, 16:12, 21:4, 21:16, 21:24 became [1] - 22:4 behind [2] - 21:5, 24:21 bench [1] - 4:7 best [1] - 8:11 bias [1] - 21:22 binding [1] - 13:12 blank [1] - 11:4 breach [1] - 22:8 breached [1] - 17:17 brief [1] - 2:21 bringing [1] - 4:8	
2				
2 [1] - 20:4 2/4/15 [1] - 8:22	4 4 [1] - 16:18 402 [1] - 1:9 44 [1] - 21:9 481 [1] - 20:22 4th [4] - 8:2, 10:7, 13:9			
	5 5 [1] - 20:3 5.2 [1] - 20:12 5863 [1] - 20:23			
	7 7 [1] - 13:22 7.1(d)(7) [1] - 5:2 753 [1] - 1:23			
	8 8 [2] - 13:22, 19:25 818 [1] - 21:9 856 [1] - 1:25 889-4761 [1] - 1:25			

17:10, 17:11
chance [1] - 8:9
checked [1] - 14:23
Circuit [4] - 16:16, 16:21, 18:11, 23:11
circumstances [6] - 5:9, 5:17, 16:2, 18:6, 19:5, 22:9
cite [1] - 9:16
cited [5] - 8:16, 9:18, 10:11, 16:13, 16:16
cites [2] - 12:22, 19:3
citizen [2] - 17:25, 20:7
citizens [2] - 13:18, 15:13
citizenship [1] - 13:16
civil [2] - 19:9, 20:18
CIVIL [1] - 1:5
claim [1] - 8:19
CLARKSON [1] - 1:9
clause [1] - 21:25
clearly [1] - 11:21
coded [2] - 13:11, 13:12
coherent [1] - 8:10
Collection [1] - 22:16
collection [1] - 6:21
coming [2] - 22:25, 24:20
complaint [7] - 7:21, 8:5, 8:20, 11:12, 11:19, 19:17, 20:4
complicated [2] - 24:14, 24:16
computer [1] - 6:8
concluded [1] - 24:24
conduct [1] - 23:25
conferring [1] - 13:14
confirmed [3] - 6:7, 6:9, 6:10
consider [2] - 10:25, 11:6
considered [2] - 11:10, 12:9
considering [1] - 3:3
Constitution [1] - 19:9
construed [1] - 16:22
contact [1] - 4:25
contacted [1] - 4:10
contend [3] - 12:5, 13:15, 20:6
controversy [1] - 20:8
converted [1] - 11:8
convince [1] - 6:3
copy [7] - 3:10, 3:22, 4:4, 5:14, 11:3
corners [2] - 11:12, 11:17

correct [3] - 1:23, 7:14, 14:7
correspondence [1] - 5:24
counsel [1] - 16:13
counterclaim [3] - 9:12, 9:14, 10:14
counterclaims [2] - 10:14, 14:25
course [3] - 5:1, 10:22, 10:24
COURT [61] - 1:1, 1:13, 2:1, 2:6, 2:11, 2:15, 2:17, 2:22, 3:2, 3:6, 3:15, 3:21, 3:24, 4:1, 4:5, 4:8, 5:6, 7:9, 7:12, 7:15, 7:25, 8:6, 8:9, 8:15, 8:21, 8:24, 9:16, 9:19, 9:21, 10:2, 10:10, 10:23, 11:23, 12:2, 12:7, 12:10, 12:20, 12:22, 12:25, 13:2, 13:5, 13:20, 14:1, 14:6, 14:12, 15:4, 15:7, 15:15, 15:19, 15:22, 16:24, 17:7, 17:14, 18:2, 18:5, 18:16, 18:23, 23:16, 23:19, 24:2, 24:18
Court [45] - 2:12, 3:4, 3:9, 3:12, 4:7, 4:15, 4:19, 5:1, 7:5, 8:22, 9:9, 10:8, 10:21, 10:25, 11:6, 12:13, 12:17, 13:15, 14:4, 14:10, 14:11, 14:15, 14:16, 14:18, 14:25, 15:1, 16:11, 16:22, 19:12, 19:18, 20:1, 20:21, 21:14, 21:18, 22:6, 22:17, 22:18, 22:22, 23:6, 23:7, 24:8, 24:15, 24:16
court [24] - 6:5, 6:6, 7:21, 7:24, 9:3, 12:18, 13:7, 13:17, 14:8, 16:1, 16:4, 17:18, 18:5, 19:8, 19:23, 20:24, 21:1, 21:4, 21:8, 21:11, 22:21, 22:24, 23:24, 24:12
Court's [1] - 23:9
COURTHOUSE [1] - 1:9
courts [7] - 9:9, 16:21, 18:19, 20:19, 21:7, 21:20, 24:11
current [1] - 12:16

D

date [10] - 6:1, 6:5, 6:6, 6:8, 6:9, 7:1, 8:1, 8:2, 8:18, 13:1
DAVID [2] - 1:6, 1:18
David [1] - 2:9
days [10] - 4:16, 8:4, 10:18, 12:7, 16:11, 16:17, 17:7, 18:18, 19:4, 21:25
deadline [2] - 3:13, 12:9
deals [1] - 19:8
debt [1] - 6:21
Debt [1] - 22:16
debtors [1] - 6:24
December [1] - 19:25
decides [1] - 11:6
decision [1] - 24:21
default [1] - 11:14
defaulted [1] - 20:17
defendant [14] - 7:20, 7:22, 9:3, 9:6, 13:25, 15:2, 16:5, 17:13, 18:12, 19:11, 20:21, 20:23, 21:3, 21:7
defendant's [1] - 23:24
defendants [17] - 2:7, 10:6, 13:9, 13:18, 15:13, 15:25, 19:14, 20:3, 20:4, 20:6, 20:11, 20:15, 20:17, 21:6, 21:15, 21:21, 22:20
DEFENDANTS [1] - 1:6
defendants' [1] - 21:15
defending [1] - 16:3
defense [1] - 9:15
deficiency [1] - 20:2
Delaware [1] - 20:7
demonstrating [1] - 6:13
denied [1] - 11:20
DENISE [1] - 1:16
Denise [1] - 2:4
detail [1] - 14:20
dictates [1] - 21:10
difference [1] - 16:24
different [1] - 17:3
directly [1] - 14:3
disagree [3] - 23:9, 24:11, 24:18
discovered [1] - 18:11
discuss [1] - 7:18
disfavored [1] - 5:8

dismiss [8] - 2:17, 3:9, 7:8, 7:16, 7:17, 7:23, 11:19, 19:16
DISMISS/MOTION [1] - 1:21
dismissed [2] - 17:2, 19:24
dispute [2] - 5:23, 20:15
District [3] - 10:8, 20:21
DISTRICT [4] - 1:1, 1:1, 1:13, 1:13
district [4] - 16:15, 19:8, 20:19, 21:8
diversity [25] - 8:17, 9:4, 9:5, 12:15, 12:18, 12:20, 12:24, 13:16, 14:20, 14:23, 15:10, 15:12, 15:23, 15:24, 16:8, 17:18, 17:20, 17:22, 19:3, 19:4, 21:4, 21:5, 21:16, 21:24, 23:8
docket [1] - 13:24
docketed [3] - 3:12, 7:23, 14:4
docketing [1] - 4:20
document [5] - 11:17, 14:1, 14:14, 14:18, 19:6
Document [2] - 13:20, 19:2
documents [1] - 14:8
domiciled [2] - 20:6, 21:15
done [1] - 5:3
Donnelly [3] - 3:11, 4:13
due [1] - 4:22
during [1] - 17:1

E

e-mail [1] - 3:10
E.D.N.Y [1] - 21:9
easily [1] - 24:7
EAST [1] - 1:9
effort [2] - 4:10, 7:1
egregious [1] - 7:3
either [3] - 5:3, 5:4, 15:18
elements [3] - 11:5, 11:16, 11:21
elsewhere [1] - 16:15
encompassing [1] - 15:23
end [1] - 5:21
endorsed [1] - 11:4

enter [1] - 2:2
entered [2] - 6:18, 23:24
entitled [1] - 14:18
entry [1] - 9:1
error [1] - 4:20
Especially [1] - 3:3
especially [1] - 5:18
ESQUIRE [2] - 1:16, 1:18
essentially [3] - 4:11, 16:17, 17:11
estate [1] - 9:24
Evidently [1] - 20:1
exactly [1] - 18:9
example [1] - 9:23
exchanged [1] - 5:23
executed [1] - 20:11
exercise [1] - 21:24
expected [1] - 18:9
extension [7] - 3:18, 4:24, 4:25, 5:4, 5:5, 7:7
extensions [1] - 7:21

F

F.Supp [1] - 21:9
facie [1] - 11:21
fact [4] - 10:15, 11:8, 16:15, 18:10
facts [1] - 4:12
failed [1] - 7:7
failing [1] - 18:18
failure [1] - 11:19
fairly [1] - 4:9
familiarity [2] - 21:12, 21:19
Farina [1] - 16:16
fathers [1] - 16:4
favorable [1] - 23:11
favoritism [2] - 21:6, 22:21
fear [2] - 16:3, 16:6
February [5] - 8:2, 10:7, 13:10, 16:18, 20:4
Federal [4] - 14:9, 14:11, 14:17, 22:16
federal [46] - 6:19, 8:17, 8:18, 8:19, 9:3, 9:4, 9:10, 9:11, 9:12, 9:13, 9:17, 13:7, 13:12, 13:15, 14:8, 14:24, 15:1, 15:9, 16:1, 16:25, 17:1, 17:3, 17:16, 17:19, 19:13, 19:15, 19:19, 19:20, 19:24, 20:23,

21:3, 21:5, 21:8,
21:20, 22:3, 22:4,
22:11, 22:12, 22:13,
22:18, 23:7, 23:24,
24:4, 24:9, 24:12
few [1] - 3:19
file [10] - 5:4, 7:1,
10:7, 13:9, 13:10,
14:25, 16:20, 18:18,
19:4, 19:16
filed [17] - 3:10, 3:13,
4:13, 4:16, 4:23,
4:24, 7:20, 7:21,
7:23, 8:23, 12:17,
14:14, 16:10, 17:19,
20:1, 20:24
filing [4] - 13:7, 14:15,
18:18, 18:21
Filing [2] - 14:10,
14:17
final [3] - 9:2, 10:20,
12:12
finally [2] - 14:18,
22:10
first [5] - 2:2, 6:14,
14:14, 19:1, 20:25
FISHER [1] - 1:9
follow [1] - 21:20
FOR [1] - 1:17
foreclosure [15] - 6:1,
6:6, 7:1, 9:7, 9:9,
11:5, 11:12, 11:16,
11:22, 20:10, 21:19,
21:21, 21:23, 22:15,
24:5
foreign [3] - 16:5,
16:6, 21:7
forth [5] - 5:10, 14:19,
18:25, 23:5, 23:14
forum [3] - 17:12,
18:12, 21:3
forward [2] - 14:24,
19:11
Forward [1] - 5:20
founding [1] - 16:3
four [2] - 11:12, 11:16
Francis [1] - 1:24
FRANCIS [1] - 1:24
Frank [1] - 24:22
Friday [2] - 3:15, 3:17
front [1] - 3:23

G

Gable [1] - 1:24
GABLE [1] - 1:24
generally [1] - 12:9
given [1] - 21:19
GMAC [2] - 20:11,

24:6
governed [1] - 21:23
government [1] - 6:20
grant [1] - 16:11
granted [1] - 11:10
greater [2] - 21:12,
21:18
Green [11] - 2:1, 2:5,
5:11, 5:25, 6:8, 6:12,
6:16, 11:13, 20:15,
20:16, 24:6
GREEN [1] - 1:3
grounds [1] - 23:6
Group [1] - 2:5
GROUP [1] - 1:16

H

half [3] - 4:24, 5:12,
22:7
handle [2] - 8:10,
24:11
handled [2] - 22:22,
24:7
heard [1] - 2:18
HEARING [1] - 1:21
held [2] - 18:13, 18:19
help [1] - 3:22
highlight [1] - 11:3
history [1] - 6:21
Hold [1] - 4:5
home [1] - 21:22
Honor [32] - 2:4, 2:8,
2:16, 2:19, 2:25, 4:3,
5:19, 5:22, 6:15,
7:11, 7:19, 8:5, 8:14,
11:25, 12:5, 12:8,
14:5, 15:2, 15:21,
16:9, 16:14, 17:6,
17:22, 18:4, 18:10,
18:19, 18:22, 23:3,
23:11, 23:12, 23:18,
24:11
Honor's [1] - 23:14
HONORABLE [1] -
1:12

I

i.e [1] - 22:13
identified [1] - 22:13
improper [3] - 9:5,
13:16, 21:16
inappropriate [1] -
21:4
incorrect [1] - 6:5
indeed [1] - 23:25
indicated [3] - 13:3,

17:15, 19:7
informal [1] - 4:4
information [1] -
19:18
initial [3] - 8:16, 10:18,
20:12
input [1] - 17:7
instance [4] - 18:8,
19:13, 19:25, 20:25
instances [3] - 2:20,
15:24, 16:7
intend [1] - 23:10
intention [1] - 6:3
interest [3] - 20:12,
21:12, 21:19
interesting [2] - 2:23,
3:1
interrupted [1] - 15:7
invited [1] - 2:22
issue [17] - 5:23, 9:13,
15:10, 15:23, 17:13,
18:15, 18:17, 18:24,
19:7, 21:25, 22:6,
22:11, 22:13, 23:4,
23:10, 24:10, 24:21
issued [1] - 20:2
issues [14] - 9:25,
10:2, 10:3, 11:8,
19:20, 19:21, 21:12,
24:4, 24:5, 24:6,
24:7, 24:9, 24:12,
24:15
itself [3] - 2:21, 11:7,
17:10

J

January [1] - 20:3
Jersey [15] - 2:14, 9:7,
9:8, 9:9, 10:8, 10:9,
11:22, 15:16, 18:1,
18:3, 18:6, 20:7,
22:21, 22:22, 24:8
JERSEY [3] - 1:1,
1:10, 1:13
Joint [3] - 13:20,
14:18, 19:2
joint [1] - 13:21
JUDGE [1] - 1:13
judgment [6] - 9:2,
10:20, 11:9, 12:12,
19:23
JULIE [1] - 1:6
Julie [1] - 2:10
June [4] - 3:12, 4:10,
4:13, 4:22
jurisdiction [29] -
8:17, 8:18, 9:1, 9:10,
10:17, 12:11, 12:14,

12:15, 12:19, 12:24,
13:14, 14:21, 15:1,
15:11, 16:5, 16:6,
16:25, 17:10, 17:22,
18:14, 19:8, 19:22,
20:20, 21:4, 21:6,
21:24, 22:19, 23:7,
23:8
jurisdictional [1] -
18:15

K

Kasenez [1] - 21:9
keep [1] - 16:23
key [1] - 6:22
KML [2] - 1:16, 2:5

L

labeled [3] - 14:9,
14:10
lack [1] - 5:11
lacks [1] - 12:14
laid [2] - 3:8, 11:21
last [1] - 4:19
late [1] - 4:24
Law [1] - 2:5
law [3] - 9:12, 21:20,
21:23
LAW [1] - 1:16
laws [1] - 19:9
least [1] - 17:15
leaves [1] - 4:7
left [1] - 17:20
legitimate [1] - 22:5
lender [1] - 11:15
Lending [3] - 9:23,
22:15, 23:22
length [2] - 5:21, 7:5
letter [18] - 3:9, 3:14,
3:15, 3:16, 3:17,
3:18, 3:19, 3:24,
3:25, 4:2, 4:8, 5:20,
5:22, 23:6, 23:20,
24:2
lies [2] - 6:15, 6:18
live [2] - 15:17, 15:25
LLC [1] - 1:3
loan [3] - 6:3, 6:13, 7:2
loans [1] - 6:24
Local [1] - 5:2
located [1] - 9:8
logic [2] - 21:5, 21:10
looked [2] - 19:1, 24:4
looking [3] - 14:1,
23:19, 24:2
lying [1] - 6:25

M

mail [1] - 3:10
maintain [1] - 22:19
manner [2] - 5:1, 8:10
Maryland [1] - 20:7
material [1] - 3:1
matter [13] - 6:6, 9:1,
10:16, 12:11, 13:14,
16:25, 17:1, 17:3,
17:10, 17:22, 18:24,
19:11, 20:5
Matter [1] - 24:24
mean [3] - 5:17, 10:2,
13:11
memorandum [2] -
2:20, 4:18
mention [1] - 9:22
merely [1] - 5:15
Metropolitan [1] -
20:22
might [1] - 2:23
million [1] - 6:19
minimum [1] - 12:15
Minnesota [1] - 20:8
misrepresentations
[2] - 5:18, 6:23
modification [2] - 6:4,
7:2
month [3] - 6:17, 6:25
months [3] - 4:24,
16:19, 22:7
mortgage [5] - 6:14,
11:14, 20:13, 20:14,
20:17
most [3] - 11:1, 17:8,
24:12
motion [29] - 2:17,
2:20, 3:9, 5:5, 7:12,
7:16, 7:17, 7:18,
7:23, 8:22, 8:23,
10:16, 10:19, 10:22,
10:24, 11:1, 11:2,
11:7, 11:9, 11:10,
11:18, 12:3, 12:6,
16:10, 16:12, 16:20,
19:16
MOTION [1] - 1:21
MR [38] - 2:8, 2:12,
2:16, 2:19, 2:25, 3:3,
3:8, 3:16, 3:22, 3:25,
4:3, 4:9, 5:7, 8:4,
8:8, 8:14, 12:5, 12:8,
12:13, 12:21, 12:24,
13:1, 14:5, 14:7,
14:13, 15:6, 15:21,
16:9, 17:6, 17:9,
17:21, 18:4, 18:9,
18:17, 23:3, 23:18,

23:21, 24:10
MS [23] - 2:4, 2:10,
 7:11, 7:14, 7:19, 8:2,
 8:16, 8:23, 8:25,
 9:18, 9:20, 9:22,
 10:4, 10:11, 10:24,
 11:25, 13:4, 13:6,
 13:23, 14:2, 15:9,
 15:16, 23:2
Murtha [2] - 3:11, 4:10
must [1] - 18:25

N

necessarily [1] - 14:23
need [3] - 8:10, 9:14,
 24:21
never [1] - 19:15
New [16] - 2:13, 9:6,
 9:8, 9:9, 10:8, 10:9,
 11:22, 15:16, 17:25,
 18:3, 18:6, 20:7,
 22:21, 22:22, 24:8
new [1] - 7:2
NEW [3] - 1:1, 1:10,
 1:13
nicely [1] - 3:8
NO [1] - 1:5
Nokia [1] - 16:16
none [2] - 17:25,
 22:17
notably [1] - 11:2
note [7] - 5:11, 5:13,
 5:14, 6:14, 11:4,
 20:11
Notice [6] - 13:21,
 14:9, 14:10, 14:17,
 14:19, 19:2
notice [26] - 4:11,
 4:14, 7:20, 8:16,
 10:5, 10:7, 10:12,
 12:17, 12:22, 13:7,
 13:8, 13:9, 13:10,
 13:21, 14:7, 14:9,
 17:14, 17:24, 19:14,
 20:2, 20:6, 20:9,
 22:5, 22:11
number [2] - 5:18,
 14:3
Numerous [1] - 18:19
numerous [1] - 16:14

O

objecting [1] - 10:19
objection [2] - 10:18,
 16:17
observed [1] - 24:4
obtain [1] - 5:4

OCTOBER [1] - 1:8
OF [2] - 1:1, 1:13
office [2] - 7:22, 7:23
OFFICIAL [1] - 1:25
often [1] - 21:20
ON [1] - 1:21
one [16] - 2:19, 4:5,
 5:19, 6:17, 6:22,
 14:9, 14:14, 14:17,
 15:5, 15:25, 17:15,
 17:20, 19:1, 22:12,
 22:13
opening [1] - 14:22
opinion [1] - 23:14
opportunity [3] - 7:18,
 8:7, 12:3
opposing [1] - 16:12
opposition [13] - 3:4,
 3:13, 4:16, 4:17,
 4:19, 4:22, 4:23, 5:8,
 7:6, 11:1, 11:2, 11:7,
 16:16
oral [2] - 3:12, 4:15
orally [1] - 23:13
order [5] - 9:13, 23:1,
 23:16, 24:20, 24:22
orders [2] - 23:23,
 24:1
ordinarily [2] - 16:1,
 19:20
original [2] - 19:8,
 20:20
originally [1] - 21:11
outside [1] - 10:18
own [2] - 5:13, 7:12
owned [1] - 6:13
ownership [2] - 5:11,
 11:3

P

Pacer [1] - 13:13
page [2] - 4:19, 5:21
papers [5] - 4:1,
 10:25, 11:2, 11:7,
 11:25
paragraph [2] - 13:22
part [3] - 13:24, 17:8,
 20:9
party [2] - 8:11, 20:25
passes [1] - 16:17
payments [1] - 20:17
PC [1] - 1:16
pending [2] - 19:13,
 19:20
percent [1] - 20:13
period [1] - 10:19
permits [1] - 11:14
person [1] - 8:12
persuade [1] - 7:1
PETER [1] - 1:12
PGS [1] - 1:5
place [2] - 6:14, 22:10
plaintiff [19] - 2:3, 2:5,
 4:16, 7:6, 8:20, 11:1,
 11:11, 16:10, 17:9,
 17:25, 19:3, 19:25,
 20:7, 20:16, 20:24,
 21:7, 21:13, 22:1,
 22:23
PLAINTIFF [2] - 1:4,
 1:17
plaintiff's [4] - 11:7,
 11:11, 20:2, 23:25
plaintiffs [5] - 15:2,
 16:10, 17:23, 22:10,
 23:5
pleadings [2] - 12:16,
 20:2
point [7] - 6:16, 14:22,
 15:18, 16:25, 20:14,
 22:12, 24:19
pointed [1] - 19:7
points [1] - 8:12
position [2] - 3:4, 4:21
possibilities [1] -
 13:14
possible [1] - 21:22
Practices [1] - 22:16
practices [1] - 6:21
precisely [1] - 6:20
preclude [1] - 11:9
prejudice [1] - 7:8
present [2] - 16:6,
 22:6
presents [1] - 3:19
pretty [1] - 4:9
prima [1] - 11:21
primarily [2] - 17:11,
 24:15
pro [3] - 2:8, 20:4,
 23:5
PRO [1] - 1:18
problem [1] - 17:14
procedural [1] - 17:12
procedures [1] - 9:24
proceed [1] - 15:20
proceedings [1] -
 21:21
promissory [1] - 20:11
proper [2] - 9:1, 10:20
properly [3] - 9:8,
 11:20, 16:11
property [4] - 9:7,
 11:15, 15:17, 20:14
proposition [1] -
 15:24
protect [1] - 21:6
provide [5] - 4:11,

5:14, 7:7, 14:25,
 23:13
provided [3] - 13:25,
 17:23, 24:23
providing [2] - 6:13,
 23:13
purportedly [1] - 4:20
pursuant [5] - 10:6,
 13:8, 20:18, 20:24,
 21:2

Q

questionable [1] -
 22:1
quite [3] - 2:25, 3:16,
 5:10

R

R.M.R [1] - 1:24
raised [2] - 19:21,
 24:9
raises [1] - 11:8
rare [1] - 2:20
rate [1] - 20:12
rather [1] - 4:4
rationale [1] - 24:21
read [2] - 10:4, 24:3
real [1] - 9:23
realize [1] - 5:7
realized [1] - 22:10
really [6] - 2:22, 3:22,
 4:9, 12:18, 13:11,
 22:11
reason [3] - 16:2,
 18:8, 22:6
reasons [1] - 18:25
received [1] - 20:3
recollection [1] -
 18:20
record [3] - 14:14,
 23:13, 23:15
refers [1] - 20:5
regard [2] - 19:21,
 24:5
regarding [1] - 3:19
Regrettably [1] -
 12:16
rejected [1] - 20:2
relying [1] - 19:3
remain [1] - 17:5
REMAND [1] - 1:21
remand [17] - 7:13,
 7:17, 7:18, 7:24,
 8:22, 8:23, 8:25,
 10:19, 12:3, 12:6,
 12:11, 16:7, 16:10,

16:20, 16:23, 17:4,
 20:25
remanded [2] - 19:23,
 21:10
remanding [1] - 22:23
remiss [1] - 13:24
removable [2] - 15:12
removal [32] - 7:20,
 8:2, 8:16, 8:21, 9:3,
 9:6, 9:16, 10:5, 10:7,
 10:12, 10:19, 12:17,
 12:22, 13:7, 13:10,
 14:8, 14:16, 14:19,
 17:15, 17:24, 18:6,
 18:8, 19:1, 19:14,
 20:6, 20:9, 20:25,
 21:3, 21:15, 22:9,
 22:11
Removal [6] - 13:21,
 14:9, 14:10, 14:17,
 14:19, 19:2
remove [5] - 16:1,
 16:7, 18:7, 20:23,
 21:8
removed [9] - 7:25,
 8:4, 9:25, 16:18,
 18:25, 19:11, 20:5,
 20:20, 24:15
removing [1] - 21:14
reply [1] - 2:21
REPORTER [1] - 1:25
representative [2] -
 5:25, 6:7
representative's [1] -
 6:2
request [3] - 4:18,
 4:25, 10:25
requests [1] - 9:3
required [1] - 1:23
rescheduling [1] -
 3:18
resident [4] - 9:6,
 17:25, 18:2, 21:3
residents [1] - 15:16
RESPA [3] - 10:14,
 22:15, 23:22
respectfully [1] - 23:9
respond [4] - 8:9,
 8:13, 12:3, 24:10
reviewed [1] - 18:23
reviewing [1] - 13:24
rule [5] - 8:6, 10:21,
 17:12, 18:12, 18:24
Rule [2] - 4:11, 5:2
rules [1] - 22:8
ruling [3] - 16:4, 23:4,
 23:14

S

sale [5] - 6:1, 6:4, 6:6, 6:8, 6:9
sanctionable [1] - 23:25
saw [2] - 18:21, 24:3
scheduled [2] - 6:8, 6:9
se [3] - 2:8, 20:4, 23:5
SE [1] - 1:18
second [3] - 4:6, 14:17, 23:10
Section [3] - 1:23, 21:1, 21:16
section [2] - 16:12, 16:22
secured [1] - 20:13
see [9] - 13:2, 13:21, 14:2, 22:2, 22:15, 22:18, 23:20, 24:8
See [1] - 20:22
seeks [1] - 11:18
sent [2] - 3:13, 14:3
separate [1] - 13:13
serious [1] - 22:8
served [1] - 3:10
service [1] - 8:5
serviced [1] - 6:24
Servicing [3] - 2:1, 2:5, 11:13
SERVICING [1] - 1:3
set [6] - 4:15, 6:2, 6:5, 6:6, 18:25, 23:5
sets [2] - 14:19, 14:20
setting [2] - 17:24, 23:14
settlement [4] - 6:18, 6:19, 6:22, 9:24
seven [1] - 5:13
shall [1] - 19:8
sheet [1] - 14:23
SHERIDAN [1] - 1:12
short [1] - 4:18
shortly [1] - 7:20
show [1] - 19:19
side [1] - 18:22
sign [1] - 22:25
signed [1] - 5:16
significant [1] - 5:19
simple [2] - 3:19, 4:9
simply [3] - 3:4, 7:5, 10:11
situation [1] - 9:2
six [2] - 4:16, 5:12
so-called [1] - 18:12
solely [1] - 12:18
someone [1] - 4:3
somewhat [2] - 5:8,

24:13
Sorry [1] - 10:4
sorry [6] - 10:10, 15:4, 15:6, 15:20, 17:12, 18:16
sort [2] - 5:7, 9:14
sorts [1] - 6:15
speaks [1] - 2:21
specific [2] - 14:20, 24:14
Specifically [1] - 20:5
specify [1] - 10:12
stamped [2] - 5:14, 5:15
standard [1] - 4:17
start [1] - 2:3
STATE [1] - 1:9
state [26] - 7:21, 7:24, 8:5, 8:12, 11:19, 12:18, 13:17, 15:13, 16:1, 17:5, 17:11, 17:12, 18:5, 19:23, 20:19, 21:1, 21:3, 21:7, 21:10, 21:14, 21:20, 21:22, 21:23, 22:21, 22:23, 24:11
State [3] - 9:9, 18:3, 22:20
states [2] - 16:17, 17:24
States [4] - 10:9, 19:10, 20:20, 20:21
STATES [1] - 1:1
statute [8] - 9:18, 9:19, 10:11, 17:3, 17:16, 17:19, 22:14
statutes [1] - 18:7
statutory [1] - 18:14
stays [1] - 19:12
still [6] - 9:10, 10:16, 10:20, 15:10, 15:17, 17:4
STREET [1] - 1:9
strict [1] - 12:9
strike [3] - 3:4, 7:6, 24:3
striking [1] - 5:8
subject [16] - 8:25, 9:7, 10:16, 11:15, 12:11, 12:14, 13:14, 15:17, 16:4, 16:25, 17:1, 17:3, 17:10, 17:21, 21:22
submit [2] - 6:3, 7:2
substantive [2] - 21:20, 21:23
sufficient [1] - 15:25
suit [1] - 20:1
summary [4] - 5:7, 11:8, 11:9, 19:22

summons [1] - 20:3
Superior [8] - 14:15, 14:16, 20:1, 21:14, 21:18, 24:8
suppose [1] - 13:23
surprised [1] - 18:10
surprisingly [1] - 6:17
sustain [1] - 22:19

T

Taylor [1] - 20:22
terms [1] - 6:22
themselves [1] - 12:1
Therefore [1] - 21:15
therefore [3] - 9:13, 17:17, 23:12
thereof [1] - 5:11
They've [2] - 5:12, 5:18
Third [4] - 16:16, 16:21, 18:11, 23:10
three [1] - 16:19
TILA [2] - 9:23, 10:14
timely [3] - 5:1, 8:4, 16:10
Title [1] - 1:23
TO [2] - 1:21
today [1] - 2:23
Today's [1] - 3:18
took [1] - 22:9
traditional [1] - 11:21
transcript [2] - 23:16, 24:22
Trask [1] - 21:8
treaties [1] - 19:10
Tree [11] - 2:1, 2:5, 5:11, 5:25, 6:8, 6:12, 6:16, 11:13, 20:15, 20:16, 24:6
TREE [1] - 1:3
TRENTON [1] - 1:10
true [1] - 1:23
truly [2] - 6:11, 7:3
Truth [3] - 9:23, 22:15, 23:21
two [5] - 4:23, 5:12, 13:13, 14:8, 22:7
type [1] - 17:8
types [1] - 19:21
Typically [1] - 10:13

U

U.S [3] - 1:13, 1:25, 20:23
U.S.C [11] - 1:23, 9:20, 10:6, 13:8, 13:19,

15:11, 20:18, 20:22, 21:1, 21:2, 21:16
under [14] - 4:11, 11:18, 16:1, 16:12, 16:18, 17:22, 18:6, 19:5, 19:9, 19:20, 21:16, 22:4, 22:9
underlying [3] - 8:19, 20:10, 21:9
understandable [1] - 22:9
undisputed [1] - 21:13
unfair [1] - 6:21
unique [1] - 24:13
UNITED [1] - 1:1
United [4] - 10:8, 19:10, 20:20, 20:21
untimely [8] - 3:5, 3:6, 4:20, 7:6, 12:6, 18:18, 18:21
unusual [1] - 5:10
unusually [1] - 6:12
up [2] - 9:1, 12:11

V

verbatim [1] - 10:5
versus [1] - 2:1
violated [3] - 17:17, 18:13, 22:14
violates [1] - 5:1
violation [1] - 18:15
violations [8] - 9:24, 22:15, 22:16, 23:22, 23:23, 23:25
Vs [1] - 1:5

W

waited [1] - 16:19
waivable [1] - 18:17
waive [1] - 18:21
waived [2] - 16:18, 19:5
waiver [1] - 18:11
Welcome [1] - 2:15
whole [1] - 17:23
wish [3] - 2:18, 7:15, 12:3
written [1] - 23:13

Y

years [1] - 5:12
York [1] - 2:13